

May 31, 2012

Volume 18, Issue 16

For more information on Michigan's gaming industry, please visit www.michigangaming.com

Editor in Chief

David D. Waddell, Esq.

Phone: 517.507.3859

waddell@rmclegal.com

Senior Gaming Analyst & Editor

Robert R. Russell, II

Phone: 517.507.3858

russell@rmclegal.com

Reporter and Associate Editor

Dustin M. Ford

Phone: 517.999.5414

dford@rmclegal.com

Reporter

Douglas L. Minke

Phone: 313.221.9380

minke@rmclegal.com

Reporter

Blaine R. DeGracia

Phone: 517.507.3857

degracia@rmclegal.com

Subscription information:

info@michigangaming.com

A publication of

RMC Ventures, LLC

University Place Center
333 Albert Ave, Suite 450
East Lansing, MI 48823
Phone: 517.507.3860
Fax: 517.908.0235
www.rmclegal.com

The MICHIGAN GAMING Newsletter



POKAGON BAND ANNOUNCES PLANS FOR NEW CASINO

On Thursday, May 24, 2012, the Pokagon Band of Potawatomi Indians (“Tribe”) announced its plans to build a new casino in Dowagiac near its tribal headquarters in Pokagon Township. The casino would be the Tribe’s third gaming facility in the state. Four Winds Casino is the Tribe’s flagship property located in New Buffalo, Michigan. Notably the Tribe opened its first satellite casino, Four Winds Hartford, in August of 2011 and features 500 slot machines and nine table games.

The Tribe made the announcement during a public hearing with the Pokagon Township Board at the Tribe’s new community center. The new facility would be the smallest of the Tribe’s existing casinos, with an estimated 200 slot machines, four table games, and a 25-seat restaurant. In addition, the new facility will have a 3,000 square-foot space that the Tribe may use for bingo games and other events. The Tribe expects the project to create 100 permanent casino and related jobs, as well as construction jobs, and has stated that the new facility would give preference to local contractors and businesses.

The Tribe’s compact with the State of Michigan allows the Tribe to operate up to three Class III gaming facilities on specific lands in the state. Once completed, the Tribe would contribute 8% of its net win on electronic games of chance at the Dowagiac facility to the Michigan Strategic Fund. In addition, the Tribe would contribute 2% of the net win on electronic games of chance to a local revenue sharing board that would decide how to distribute the funds to local units of government.

In order to move forward with the plans, the Tribe must first enter into an agreement with the Pokagon Township Board. It is expected that an agreement will be presented to the board and considered at its June 13, 2012 meeting.

Following the opening of the new casino this will bring the state's total inventory of casinos to 26.

MGCB NOTICE OF PUBLIC MEETING

The Michigan Gaming Control Board ("MGCB") will hold its regular public meeting on Tuesday, June 12, 2012, at the MGCB Detroit office, Cadillac Place, 3062 West Grand Blvd., Suite L-700, Detroit. The meeting will begin at 9:30 a.m. with the staff briefing, followed immediately by the regular agenda items. The purpose of the briefing is to update the Board members on matters to be taken up at the meeting. The Cadillac Place is in Detroit's New Center Area near the John Lodge Freeway (M-10), between Second Avenue and Cass Avenue. The Fisher Building and the Albert Kahn Building are nearby landmarks.

The purpose of the Board meeting is to conduct Board business regarding the implementation, administration and enforcement of the provisions of the *Michigan Gaming Control & Revenue Act*, as amended, Public Act 69 of 1997, MCL 432.201, et seq ("the Act"), related to the licensing, regulation and conduct of casino gaming in the City of Detroit.

The meeting is open to the public and questions, comments and suggestions from the public, regarding Board business and the licensing, regulation and conduct of casino gaming in Detroit under the Act, are welcomed and encouraged during the public comment portion of the meeting.

AGA REPORT SHOWS COMMERCIAL CASINO REVENUE GROWTH IN 2012

On Wednesday, May 9, 2012, the American Gaming Association (AGA) announced that it released its annual report, *State of the States: The AGA Survey of Casino Entertainment*. The report shows national gross gaming revenues increased by 3 percent in 2011 when compared to 2010 to a total of \$35.64 billion.

"These positive 2011 economic figures are

welcome news to our industry, our employees, and the communities where we operate," said Frank J. Fahrenkopf, Jr., president and CEO of the AGA. "While the recovery is ongoing and the commercial casino industry is not monolithic, the data paints an optimistic picture."

Notably, the report shows that the Detroit market fared well, ranking fourth in the top twenty U.S. casino markets generating \$1.42 billion in revenues, employing more than 7,300 workers. In Pennsylvania, gaming revenue increased by more than 21 percent in 2011, while Nevada had a 2.9 percent increase. Furthermore, the commercial casino gaming industry employed more than 339,000 people and contributed \$7.93 billion in tax revenues throughout the U.S.

Additionally, the *State of the States* report provides other gaming industry sector information. Specifically, it reports that the gaming equipment manufacturing sector directly generated \$12.3 billion in revenue in 2011, a 7 percent increase from 2010. Gaming equipment manufacturers also employed 30,300 people. According to the report, there were more than 837,000 gaming machines in operation throughout the U.S. in 2011.

The report also states that 83 percent of elected officials and civic leaders in gaming jurisdictions say that the overall impact of casinos in their area has been positive. The same percentage also states that the introduction of casinos has met or exceeded their expectations.

The *State of the States* report highlights public polling data showing that 27 percent of the U.S. adult population visited casinos during 2011. More than 80 percent of the U.S. adult population also view casino gaming as acceptable for themselves or others.

The *State of the States* report offers an in-depth look at the commercial casino industry and provides national and state-by-state economic impact data. A full copy of the 2012 *State of the States* can be downloaded at www.americangaming.org.

(Continued on page 3)

KEWADIN CASINO RESTAURANTS TO GO SMOKE FREE

On Tuesday, May 22, the Sault Tribe of Chippewa Indians' (Sault Tribe) approved a resolution to make three Kewadin Casino restaurants smoke free. Smoking will be prohibited beginning June 15 at Dream Catchers Restaurant at Kewadin Casino, Sault Ste. Marie; Horseshoe Bay Restaurant at Kewadin Casino, St. Ignace; and Mariner's Cove Restaurant at Kewadin Casinos, Manistique.

"We know commercial tobacco use is the single most preventable cause of death and disease, and the Sault Tribe and Kewadin Casinos will be taking steps now and in the future to create healthier environments for our employees and our guests," said Kewadin Casinos COO Tony Goetz.

Combined, the three restaurants can hold more than 550 diners in almost 12,000 square feet of space.

OHIO CASINO UPDATE

Hollywood Casino Toledo Opens

On Tuesday, May 29, 2012, the Hollywood Casino Toledo opened to the public following a morning VIP reception. The new casino facility is owned by Penn National Gaming, and boasts a 125,000 square foot gaming floor featuring more than 2,000 slot machines and 60 table games. In a press release announcing the opening of the Hollywood Casino Toledo, Peter Carlino, Chairman and CEO of Penn National Gaming, stated, "[w]e are grateful to the State of Ohio and the Ohio Casino Control Commission for their work to make this day possible, and we are proud of the partnerships we have established with the cities of Toledo and Rossford and Lucas County to bring new jobs and tax revenues that are driving an economic recovery in the region. This spectacular casino marked by luxurious design and modern grandeur offers guests a regional destination with premier gaming, dining and entertainment options as well as the convenience of a dynamic, single floor layout, all at the crossroads of Northwest Ohio. Just seconds from I-75 and its nearby intersection with the Ohio

Turnpike, Hollywood Toledo is in a convenient and easily accessible location for players from Michigan, Indiana, elsewhere in Ohio and beyond."

The Hollywood Casino Toledo has reported large crowds during its first few days of operation, and has estimated that more than 10,000 patrons visited the casino facility on Tuesday.

Penn National Gaming is also currently building the Hollywood Casino Columbus, which is scheduled to open in October. The Columbus facility, which is a \$400 Million investment, will be larger than the Hollywood Casino Toledo and will feature more than 3,000 slot machines and 100 table games.

The opening of the Hollywood Casino Toledo follows that of the Horseshoe Casino Cleveland, which opened on May 14th. The Horseshoe Casino Cleveland is majority owned by Rock Gaming, LLC, which is also slated to open the Horseshoe Casino Cincinnati in the spring of 2013.

Ohio Court Dismissed Challenge to the Constitutionality of VLT and Casino Statutes

Yesterday, May 30, 2012, Judge Timothy Horton of the Franklin County Court of Common Pleas issued an opinion dismissing a lawsuit filed against, among others, Ohio Governor John Kasich, members of the Ohio Lottery Commission, members of the Ohio Casino Control Commission and the Commissioner of the Ohio Department of Taxation. The lawsuit, filed by the conservative "Ohio Roundtable" organization and other interests opposed to an expansion of gaming in Ohio, sought to challenge the constitutionality of bringing Video Lottery Terminals ("VLTs") to the state's horse racetracks, as well as many aspects of the deal that was struck between Gov. Kasich and commercial casino developers in June of 2011 concerning, among other things, casino licensing fees and application of the commercial activities tax to gaming revenue. The plaintiffs' main argument was that VLTs cannot be installed at the state's racetracks without a statewide vote of the Ohio electorate. In passing the VLT law, the Ohio legislature has contended that the 2009 constitutional amendment authorizing four

(Continued on page 4)

commercial casinos in the state also gave the Ohio Lottery Commission the power to expand its offerings in the form of electronic gambling devices.

The Defendants in the case moved to dismiss the matter, arguing that the Plaintiffs lacked standing to bring the instant lawsuit. Following the submission of briefs and oral arguments, the Court agreed. A press release from the Court announcing the decision quoted from Judge Horton's opinion, which provides that the judiciary "operates within certain boundaries and should not be used wantonly and/or for political or social gain. Throughout their pleadings and oral arguments, Plaintiffs have offered little more than bare assertions of harm or injury." As such, the Court dismissed the lawsuit based on the Plaintiffs' lack of standing to press their claims.

This decision paves the way for the state's seven horse racetracks to offer VLT wagering. The VLT legislation allows up to 2,500 devices to be placed at each track facility - - for a total of 17,500 VLTs that could soon be operated within the state.

A copy of Judge Horton's decision in the matter of State ex rel. Robert L. Walgate Jr. v. John R. Kasich, Governor, et al., Case No. 11 CV 13126, can be found on the Franklin County Court of Common Pleas website, located at: <http://fcdcfjs.co.franklin.oh.us/CaseInformationOnline/>

Ohio's First "Racino" Set to Open Tomorrow

Scioto Downs, a horse racetrack in Columbus, Ohio that is owned and operated by MTR Gaming Group, Inc., has announced that tomorrow at 2:00 pm it will begin offering Video Lottery Terminal ("VLT") wagering at its facility. Scioto Downs, which began its harness racing season on May 10th, will initially be offering 2,125 VLTs, with the option to increase the number of devices it offers for play to 2,500. Following the approval of its license by the Ohio Lottery Commission last week, Jeffrey Dahl, President and CEO of MTR Gaming Group, said "[t]his is a significant achievement for MTR Gaming as Scioto Downs becomes the first of Ohio's racetracks to be granted a permanent license to operate VLTs in the state. [The] opening of Scioto Downs will be the culmination of an extensive effort and we want to thank the design and construction crews as well as our MTR Gaming team members for

completing the project on schedule and within budget. We will also be conducting a ribbon cutting ceremony on June 19 to thank public officials and to officially welcome our guests to this exciting new gaming and entertainment complex."

Furthermore, following the decision issued yesterday by the Franklin County Court of Common Pleas (see story above), it is expected that the state's six other racetracks will move forward with development plans to bring VLT wagering to their respective facilities as well.